

REMARKS

Claims 1-13 and 19-22 are pending. Claims 1-11 and 19 stand preliminarily rejected and claims 12 and 13 are objected to. Claims 1, 12, 13 and 19 have been amended and claims 20-22 are new. Reconsideration of the present application as amended is respectfully requested.

The drawings are objected to under 37 CFR 1.83(a). The Office Action states that the drawings must show more than one translating portion (from claim 7). Applicant asserts that the drawings do show more than one translating portion. Fig. 1 illustrates a pair of telescoping assemblies 30. As illustrated in Fig. 4, each telescoping assembly 30 includes a translating portion 32. Moreover, Fig. 5B illustrates two telescoping assemblies 30' and two translating portions 32'. Additionally, Fig. 6 illustrates two translating portions 32'. Applicant respectfully requests that this objection be withdrawn.

Claim 7 has been rejected under 35 U.S.C. 112, first paragraph as failing to comply with the written description requirement. The Office Action states that there is no description as to how the longitudinally extending assembly comprises more than one translating portion, and that only one translating portion 32 is shown and described. However, as stated above, the specification and drawings both contain illustrations and discussions of two translating portions 32 and two translating portions 32'. Applicant respectfully requests that this rejection be withdrawn.

Claims 1-6, 8, and 19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,057,265 to Grace (hereinafter "Grace") in view of U.S. Patent No. 6,634,666 to Shilitz et al (hereinafter "Shilitz"). Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grace as applied to claims 1-6, and 8 above, and further in view of U.S. Patent No. 5,984,613 to Motilewa (hereinafter "Motilewa"). Additionally, claim 10 is rejected under 35

U.S.C. 103(a) as being unpatentable over Grace as applied to claims 1-6, and 8 above, and further in view of Shilitz. Further, claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grace as applied to claims 1-6, and 8 above, and further in view of Motilewa and Shilitz.

The Office Action asserts that Grace discloses an adjustable trailer hitch according to claims 1-6, 8 and 19, except a receiver. Thereafter, the Office Action asserts that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided an adjustable trailer hitch, as taught by Grace, along with a receiver as shown in Shilitz. Applicant respectfully traverses.

Independent claims 1 and 19 disclose an adjustable trailer hitch in which a latitudinal cross bracket assembly (or means) is attached to a translating portion (or means). Applicant has amended independent claims 1 and 19 to clarify the planar translation of the hitch receiver with the latitudinal cross bracket assembly (or means). For example, as claimed, the hitch uses only planar, two-dimensional movement (i.e., extension/retraction and side-to-side) to adjust the hitch assembly 10 to place the receiver at a desired position. In contrast, Grace requires three-dimensional movement of the hitch ball 14.

Further, the hitching assembly disclosed in Grace includes a hitch always positioned lower than the longitudinally translating portions of the assembly frame, creating an undesirable situation in use since the hitch is lower with less ground clearance and is more likely to become damaged by hitting the ground or an obstacle. Since Grace allows vertical movement, there is a risk of the hitch falling free during use if the support mechanism fails. Applicant asserts that Grace in view of Shilitz does not teach or suggest all of the claim limitations recited in claims 1 and 19 as amended, and their dependent claims 2-11 and 20-22. Applicant respectfully requests

that these rejections be withdrawn.

The Office Action separately asserts that claim 9 is rejected under §103(a) as being unpatentable over Grace in view of Motilewa. Applicant respectfully asserts that claim 9, as depending from amended claim 1, is patentable over the asserted combination based on the patentability of amended claim 1 discussed above. Further, Applicant respectfully asserts that Grace and Motilewa is not a proper combination. Motilewa discusses a cargo lifting device with vertical movement, and does not teach or suggest powered hitch alignment. The suggestion/motivation to combine or modify under §103 needs to be specific. Where a "statement is of a type that gives only general guidance and is not specific as to the particular form of the claimed invention and how to achieve it ... [s]uch a suggestion may make an approach 'obvious to try' but it does not make the invention obvious." Ex parte Obukowicz, 27 USPQ2d 1063, 1065 (U.S. Pat. and Trademark Off. Bd. of Pat. App. & Interferences 1993) (citations omitted). Applicant submits that no such specific suggestion has been identified.

Moreover, the statement taken from Motilewa does not render it obvious to substitute a worm gear for the hydraulic cylinders of Grace. Worm gears are compact, efficient low-power means of operation and include safety benefits in that they only operate when the gears are turned and do not turn without an applied driving mechanism avoiding unintended movement. Additionally, worm gears provide a more sensitive, precise adjustment system than other operational methods. Worm gears provide the present invention with easy and safe operation of the hitch assembly even when unpowered.

In contrast, hydraulic cylinders, such as suggested by Grace, can lose power or lose seal pressure, creating a leak and potential failure of the device, such as unintended release. They also require greater power and pressure and are less precise. These two different devices are


nonobvious substitutes. It is well recognized that known disadvantages in devices may be taken into account in determining obviousness. United States v. Adams, 383 U.S. 39, 52 (1966). Based on the foregoing, one would not be motivated to consider the asserted substitution. Applicant respectfully traverses and requests that this rejection be withdrawn.

Claims 12-13 were objected to as being dependent upon rejected base claims. However, the Office Action has indicated that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 12 has been amended to address this objection and claim 13 depends from claim 12. Applicant respectfully requests that this objection be withdrawn.

It should be understood that the above remarks are not intended to provide an exhaustive basis for patentability or concede the basis for the rejections in the Office Action, but are simply provided to overcome the rejections made in the Office Action in the most expedient fashion.

In view of the above amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and an early notice of allowance is requested. If the Examiner feels that any issues remain, the Examiner is invited to contact the Applicant's undersigned representative by telephone.

Respectfully submitted

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